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Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting
non-governmental organization(s).

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Asia: Accountability for violence against women committed in official capacities and integration of gender-perspectives in the remedy mechanism

1. Throughout South and East Asian countries women continue to be subjected to unrestrained discrimination and violence. This includes verbal offences and intimidation, harassment, rape and sexual abuse, beating, and torture and ill treatment, perpetrated by police officers, soldiers, members of security forces, and other state actors.
2. The modalities through which such abuses occur may vary depending on the country's specific circumstances. However, it is possible to identify two major trends: 1) Violence deliberately committed by military and paramilitary forces through targeted attacks, and 2) Violence committed against female complainants or detainees while on duty, mainly by police constables and guards in penitentiaries and police stations.
3. In both scenarios, all government agents involved prove to be far from complying with international standards, and trends of significant impunity are shared throughout the region.
4. In Myanmar, despite the election of a nominally civilian government in 2010, numerous cases of rape and gang-rape by the Burmese Army have been confirmed. In particular, rape has been and is still being used by the military as a tool of warfare and oppression against ethnic minorities concentrated in the northeast of the country. Such ongoing crimes of sexual violence are perpetrated even against minor girls and pregnant women. They are not isolated episodes but rather planned offensive acts for which military perpetrators systematically evade prosecution.
5. In Balochistan, the largest province of Pakistan, the "war on terror" has increased the activities of several military and paramilitary forces, including the Frontier Corps (FC), and intelligence agencies. The large number of arbitrary arrests and illegal detentions occurring in the so called "disturbed areas" also includes women who have been unjustifiably arrested and sexually abused to obtain confessional statements about suspected Balochi nationalists. It is known that several women have been arrested and kept in secret cells, forced to serve as sex slaves for the militants, while others are harassed and threatened during village raids and other military operations.
6. A shared aspect among Asian countries is the limited safety and security for women. Throughout South and Southeast Asia torture in custody and detention is rampant. It is a widespread practice of abuse of power perpetrated in an official capacity and mainly aimed at extorting confessions. Imprisoned women and women temporarily in custody for interrogation are more exposed than men to the risk of being tortured by means of sexual abuse by prison and police personnel, who are men in the great majority. Both the abuse they commit and the impunity they enjoy are sanctioned by their government.
7. Violence against women is also an alarming component of the complaints registration system. Women who intend to report an offence, whether it is rape, domestic violence, verbal or physical assault, are very unlikely to find meaningful assistance (many times they are even forced to withdraw their complaints) or they are often laughed at by police staff that discriminate against women as inferior citizens and minimise the gravity of the offences committed against them. It is not rare that women who go to a police station to file a complaint are not only denied professional assistance, but are even further harassed by police agents who may abuse them verbally and physically and who therefore exacerbate the violence committed in the first place.
8. The civilian policing system throughout the continent appears dysfunctional. With regards to women, it heavily replicates those patterns of gender inequality, patriarchal mindsets and structural violence that pervade the Asian societies. The problem, therefore, goes beyond the limited capacity of guaranteeing basic discipline and professionalism within law enforcement agencies. Besides the lack of concern about possible disciplinary actions due to misbehaviour, what fosters violence is primarily the gender-based discrimination which derives from society and which results in the largely condoned demeaning and abusive attitudes towards girls and

women. Structural violence infiltrates state agencies which become responsible for institutionalised abuses, to then reflect back to society and nourish the circle of violence where women are one of the sectors suffering the most. The cast categorisation of society typical of the subcontinent, together with poverty and low-social status featuring a large portion of the population in South and East Asia, represent added factors which further expose women to the risk of violence and the denial of protection.

9. The necessary reform of the policing systems in many Asian countries needs to be comprehensive and include higher gender sensitisation. A policy of gender integration, which would see more female police personnel "on board", may help in decreasing risks for both women who are convicted or interrogated, and women who want to report abuse. However, instances of women police officers who participate with their male colleagues in harassment and violence suggest that police reform should also adopt a more holistic strategy of gender mainstreaming.
10. Integrating gender perspectives in conducts, policies, guidelines and structures at all levels, and understanding in particular women's constraints and disadvantages related to socio-cultural norms, would ensure greater protection and equal assistance. Having more police women is desirable, however insufficient to guarantee fairness and to make sure that violence against women perpetrated by state agents will be eradicated. Besides, the hiring of more women into police and army forces would be a direct consequence of national policies and societal propensity towards equal opportunities and balanced access to resources shared among the population. Gender mainstreaming, therefore, may become one of the valid strategies to meet the needs of effective police reforms within the regional context.
11. In the majority of Asian countries, States have failed to prevent abuses on a large scale, protect women who have been victims of violence, and bring perpetrators to justice, whether they are offenders from the private sphere, the profit sector, civil society or government bodies. Addressing the complex problem of rape and other forms of violence against women requires legal reforms, but especially a sustained commitment by the authorities aimed at ensuring that the criminal justice system responds effectively and at all levels.
12. There is documented evidence that every process in the administration of the justice system, from making a complaint and instituting a trial in a court to receiving redress or compensation, is perforated with bureaucratic inefficiencies, under-funding, bribes taking and corruption, and is open to widespread political influence and infiltration by non-state actors, thereby impeding the ability of the civilian justice system to deliver justice independently and effectively. In cases of violence against women, such faults are worsened by discrimination, disrespect and other negative attitudes towards women that make the entire mechanism profoundly gender-biased and create enormous difficulties for survivors to obtain justice. Whilst the dysfunctions of state apparatuses impact the entire population and affect the diffuse distrust that citizens place in the institutions of their countries, women are the ones that suffer the greatest harm as a combined result of the flaws of the judicial system and its lack of gender-perspectives. The "culture of blame" which leads to pointing the finger against rape survivors (who consequently suffer the burden of an enormous social stigma), oftentimes influences the way even judges, especially from the lower courts, handle cases of sexual assault. Greater gender-sensitisation, therefore, is required also in the administration of the judiciary through training and raising-awareness workshops which can adjust gender imbalances in both procedures and verdicts.
13. Asian States are required to develop and implement effective and comprehensive inter-disciplinary plans of action to prevent violence against women, address the variety of its forms and its occurrence in several contexts, and pave the way for an effective implementation of the law and an adequate functioning of the redress mechanism. In fact, in most Asian countries, the main problem is not caused by the lack of relatively good laws, but rather by the failure to implement them consistently with a particular concern of the circumstances and the impacts that different offences have on different people. Furthermore, given the fact that the great majority of Asian countries have signed and ratified CEDAW, States are obliged to exercise due diligence in ensuring that non-State actors, such as armed factions, private security contractors, rebels, and other insurgent groups are also held fully accountable for crimes they commit against women.

14. While welcoming the comprehensive work of the Special Rapporteur on violence against women, its causes and consequences and the possible broadening of her focus on forms of institutionalised gender-based violence, in order to effectively eradicate violence against women and the rampant impunity related to it particularly in the Asian region, the ALRC requests the Human Rights Council to call upon the governments of Asian countries to;
- a. Recognise and condemn all acts of violence against women and girls, whether these acts are perpetrated by the State, private persons or non-State actors;
 - b. Conduct gender assessments ascertaining specific gaps and gender related needs among their institutions, particularly the police, the army and the judiciary, in order to promote engagement and understanding among their representatives, while also building their technical capacity, which is critical to successful gender-mainstreaming;
 - c. Demonstrate a stronger political will and adopt a methodology for analysis and reform of its law enforcement agencies aimed at ensuring that gender concerns are incorporated in the implementation of codes of conduct, as well as in the internal monitoring and work evaluation of practices and attitudes assumed by police personnel and other government officials, and;
 - d. Demand accountability for the implementation of gender equality dimensions of national laws, policies, conducts and strategies, and harsh punishment for any form of abuse or violence perpetuated on women in any official capacity.
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